

## **GRIEVANCE PROCEDURES FOR CHALLENGING REFERENCE TO THE CHILD ABUSE CENTRAL INDEX**

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1. Within five (5) business days of submitting an individual's name to the Department of Justice (DOJ) for listing on the Child Abuse Central Index (CACI), the following forms shall be sent to the individual at his/her last known address:
  - a. The Notice of Child Abuse Central Index Listing (SOC 832),
  - b. Grievance Procedures for Challenging Reference to the Child Abuse Central Index (SOC 833), and
  - c. Request for Grievance Hearing (SOC 834).
2. An individual wishing to challenge his/her listing on the CACI may request a grievance hearing pursuant to the following procedure. This does not preclude the county from initiating an internal investigation to address or rectify the matter identified in the request for grievance, prior to the hearing.
  - a. The individual wishing to challenge his/her listing on the CACI shall send by U.S. mail, fax, or in person, a completed SOC 834 form or a written request for grievance hearing, signed by the complainant that includes the referral number, name of county, complete contact information, a reason for grievance which the individual believes provides a basis for reversal of the county decision, and if represented, the name and contact information for the representative.
  - b. The request must be received by the county within thirty (30) calendar days of the date of notice. Failure to send the completed SOC 834 form, or written request, within the prescribed timeframe shall constitute a waiver of the right to a grievance hearing.
  - c. An individual is deemed aware of the county decision when the county mails the notification to the individual's last known address or any other address known by the county where the notice and request for grievance are most likely to be received by the individual.
  - d. For individuals to whom no prior notification was mailed regarding his/her submission to the CACI, the individual shall file the completed SOC 834 form within thirty (30) calendar days of becoming aware that he/she is listed in the CACI and becoming aware of the grievance process.
  - e. When an individual requests, the county shall assist the individual in the completion of the SOC 834 form or written request for grievance hearing.
3. The following grievance hearing procedures shall only apply for challenges to county submission for listing individuals on the CACI.
  - a. A grievance hearing request shall be denied when a court of competent jurisdiction has determined that the suspected child abuse and/or severe neglect has occurred, or when the allegation of child abuse and/or severe neglect resulting in the referral to CACI is pending before the court.
  - b. If the information in 3 (a) no longer applies, a complainant (an individual wishing to challenge his/her listing on the CACI) can submit the completed SOC 834 form, or written request, within thirty (30) calendar days of the conclusion of the judicial matter to request a grievance hearing.
  - c. The grievance hearing shall be scheduled within ten (10) business days and held no later than sixty (60) calendar days from the date the request for grievance is received by the county, unless otherwise agreed to by the complainant and the county.
  - d. Notice of the date, time, and place of the grievance hearing shall be mailed by the county to the complainant at least thirty (30) calendar days before the grievance hearing is scheduled, unless otherwise agreed to by the complainant and the county.
  - e. The complainant may have an attorney or other representative present at the hearing to assist him/her.
  - f. Either party may request a continuance of the grievance hearing not to exceed ten (10) business days. Additional continuance or dismissal of the hearing shall be granted with mutual agreement of all parties involved or for good cause.
  - g. The county may resolve a grievance at any point by changing a finding of substantiated child abuse and/or severe neglect to inconclusive or unfounded and notifying the DOJ of the need to remove the complainant's name from the CACI.
4. The grievance review officer conducting the grievance hearing shall be:
  - a. A staff or other person not directly involved in the decision, or in the investigation of the action or finding, that is the subject of the grievance hearing.
  - b. Neither a co-worker nor a person directly in the chain of supervision of any of the persons involved in the finding, or in the investigation of the action or finding, that is the subject of the grievance hearing unless the grievance review officer is the director or chief deputy director of the county.
  - c. A staff or other person who is knowledgeable of the child welfare services field, capable of objectively reviewing case information pertaining to the grievance, able to conduct a fair and impartial hearing, and available to prepare the proposed decision.
5. The grievance review officer shall voluntarily disqualify him/herself and withdraw from any proceeding in which he/she cannot give a fair and impartial hearing or in which he/she has an interest.
  - a. A claimant may request at any time prior to the close of the record, that the grievance review officer be disqualified upon the grounds that a fair and impartial hearing cannot be held or a decision cannot be rendered. Such request shall be ruled upon by the grievance review officer prior to the close of the record.
  - b. If, at the beginning or during the hearing, the grievance review officer upholds a party's motion for disqualification, the matter shall be postponed.
6. If the grievance review officer who heard the case is unavailable to prepare the proposed decision, the county director or his/her designee shall contact the claimant and the county and notify each party that the case is being assigned to another grievance hearing officer for preparation of the decision on the record.
  - a. The notice shall inform the claimant that he/she may elect to have a new grievance hearing held in the matter, provided that he/she agrees to waive the ten (10) day or sixty (60) day period.
  - b. A grievance review officer shall be considered unavailable within the meaning of this section if he/she: is incapacitated; has ceased employment as a grievance review officer; or is disqualified under section 5, above.
7. The grievance review hearing shall, to the extent possible, be conducted in a non-adversarial environment.

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8. The county, complainant, and his/her representatives, if any, shall be permitted to examine all records and relevant evidence that is not otherwise made confidential by law, which the opposing party intends to introduce at the grievance hearing.
  - a. The county and the complainant shall make available for inspection all records and evidence related to the original referral that prompted the CACI listing, except for information that is otherwise made confidential by law, at least ten (10) business days prior to the hearing.
  - b. The county shall redact such names and personal identifiers from the records and other evidence as required by law and to protect the identity, health, and safety of those mandated reporters of suspected child abuse and/or severe neglect pursuant to Penal Code section 11167. The county may further redact information regarding the mandated reporter's observations of the evidence indicating child abuse and/or severe neglect.
  - c. The county shall release disclosable information to the complainant's attorney or representative only if the complainant has provided the county with a signed consent to do so.
  - d. Witness lists shall be available for exchange in advance of the hearing. The county and the complainant shall provide a list of witnesses they intend to call at the grievance hearing at least ten (10) business days prior to the grievance hearing.
  - e. Failure to disclose evidence or witness lists in advance of the grievance hearing can constitute grounds for objecting to consideration of the evidence or allowing testimony of a witness during the hearing.
  - f. Each party and their attorney or representative, and witnesses while testifying, shall be the only persons authorized to be present during the grievance hearing unless all parties and the grievance review officer consent to the presence of other persons.
  - g. The information disclosed at the grievance hearing may not be used for any other purpose. No information presented at the grievance hearing shall be disclosed to any person other than those directly involved in the matter, unless otherwise required by law. Any records and other evidence disclosed by the county to the complainant or the complainant's representative shall be returned to the county at the conclusion of the hearing.
9. All testimony shall be given under oath or affirmation.
  - a. The grievance review officer has no subpoena power. However, the parties may call witnesses to the hearing and question the witnesses called by the other party. The grievance review officer may limit the questioning of the witness to protect the witness from unwarranted embarrassment, oppression, or harassment.
  - b. The grievance review officer may prevent the presence and/or examination of a child at the grievance hearing for good cause, including but not limited to, protecting the child from trauma or to protect his/her health, safety, and/or well-being.
  - c. The grievance review officer may permit the testimony and/or presence of a child only if the child's participation in the grievance hearing is voluntary and the child is capable of providing voluntary consent.
  - d. The grievance review officer may interview the child outside the presence of county staff, complainant, and/or any other party in order to determine whether the participation of the child is voluntary or whether good cause exists for preventing the child from being present or testifying at the grievance hearing.
  - e. The county employee(s) who conducted the investigation that is the subject of the grievance hearing shall be present at the hearing if that person is employed by the county and is available to participate in the grievance hearing. A conflict in work assignments shall not render the county employee who conducted the investigation unavailable to participate in the hearing.
  - f. The county shall first present its evidence supporting its action or findings that are the subject of the grievance. The complainant will then provide evidence supporting his/her claim that the county's decision should be withdrawn or changed. The county shall then be allowed to present rebuttal evidence in further support of its finding. Thereafter, the grievance review officer may, at his/her discretion, allow the parties to submit any additional evidence as may be warranted to fully evaluate the matter under review.
  - g. The grievance review officer shall have the authority to continue to review for a period not to exceed ten (10) calendar days if additional evidence or witnesses are necessary to make a determination on the issue.
10. The county shall have the proceedings of the grievance hearing audio recorded as part of the official administrative record. The county shall possess and maintain the administrative record of the grievance hearing.
  - a. The complainant or the complainant's attorney and/or representative shall be entitled to inspect the recording and any transcripts made thereof; however, the county shall keep possession of the recording and transcript and its contents will remain under seal.
  - b. Where the complainant seeks to inspect the transcript, the costs for transcribing a recording of the hearing shall be assessed to the complainant.
  - c. The county shall lodge the administrative record with the court if any party seeks judicial review of the final decision of the county director.
11. Grievance hearing decisions shall be rendered as follows:
  - a. The grievance review officer shall make a determination based upon the evidence presented at the grievance hearing, whether the allegation of child abuse and/or severe neglect is unfounded, inconclusive, or substantiated as defined by the Penal Code section 11165.12.
  - b. The grievance review officer shall render a written recommended decision within thirty (30) calendar days of the completion of the grievance hearing. The decision shall contain a summary statement of facts, the issues involved, findings, and the basis for the decision. The county director shall issue a final written decision adopting, rejecting, or modifying the recommended decision within ten (10) business days after the recommended decision is rendered. The final written decision shall explain why a recommended decision was rejected or modified by the county director.
  - c. A copy of the recommended and final decision shall be sent to the following:
    - i. The complainant that requested the grievance hearing;
    - ii. The complainant's attorney or representative, if any; and
    - iii. The California Department of Social Services.
  - d. If the complainant chooses to challenge the final decision of the county director, the evidence and information disclosed at the grievance hearing may be part of an administrative record for a writ of mandate and kept confidential.
  - e. The administrative record shall be kept confidential, including if any of the parties request that it be filed with the court under seal.
  - f. The grievance hearing administrative record shall be retained for a length of time consistent with current law, regulations, or judicial order which governs the retention of the underlying record, but not less than one year from the decision date in any circumstance, and shall include all records accepted as evidence at the hearing.